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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,176	03/24/2004	Egbert Mundt	I-2003.002 US	6825
31846	7590	09/21/2007	EXAMINER	
INTERVET INC.			MOSHER, MARY	
PATENT DEPARTMENT			ART UNIT	
PO BOX 318			PAPER NUMBER	
MILLSBORO, DE 19966-0318			1648	
			MAIL DATE	DELIVERY MODE
			09/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/809,176

Applicant(s)

MUNDT ET AL.

Examiner

Mary E. Mosher, Ph.D.

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 7-10 is/are rejected.
- 7) ☒ Claim(s) 3-6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

The examiner of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 1648, examiner Mosher.

Response to Amendment

In response to applicant's arguments and amendments, and in response to the deposit statement made on page 8 of the response filed July 19, 2007, the rejections of record are withdrawn.

Specification

The disclosure is objected to because of the following informalities: the specification contains sequence recitations that are not accompanied by the mandatory SEQ ID identifiers, see for example page 4 line 9, page 14 lines 5-8, 12, 15, 17-19, 21, 22, and page 25 lines 4-40 (referring to the specification pages as originally filed).

Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 9-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 9-10 now lack antecedent for "the vaccine".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Vakharia et al, US 6017759. In Table 5, IBDV strain InterVet Prime Vac is shown as binding with monoclonal antibodies 63, 69, and 67, thereby meeting the requirements of claims 1 and 2. This is listed under the heading of "Vaccine Virus", thereby meeting the requirements of claim 7.

Claim Rejections - 35 USC § 103

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being obvious over Vakharia et al, US 6017759. These claims differ from Vakharia in that they require a live immunogen, a combination of poultry immunogens, and an adjuvant, respectively, and Vakharia merely discloses a vaccine strain. However, in the IBDV art, these are all well known vaccine variations, and constitute obvious variants. The invention as a whole is therefore prima facie obvious, absent unexpected results.

Allowable Subject Matter

Claims 3-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art contains information regarding the differences in primary structure between classical and E variant IBDV VP2, see for example Figure 3 of Vakharia. The prior art also contains suggestions to make chimeric VP2 protein by substituting strain-specific amino acids, see for example claim 1 of Vakharia. The prior art further contains

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knowledge of how to perform site-directed mutagenesis of VP2 and recover infectious virus, see for example Boot et al (Journal of Virological Methods 97:67-76, 2001) and Mundt (Journal of General Virology 80:2067-2076, 1999) and Lim et al (Journal of Virology 2854-2962, 1999). However, the prior art does not appear to teach or suggest the specific combinations of amino acids at two separate locations, which applicants have shown to be required to construct the moab 67 conformational epitope found in E variant IBDV.

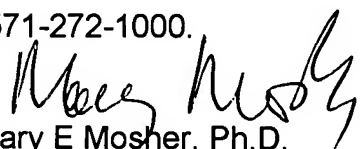
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary E. Mosher, Ph.D. whose telephone number is 571-272-0906. The examiner can normally be reached on varying dates and times; please leave a message..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campbell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Mary E Mosher, Ph.D.
Primary Examiner
Art Unit 1648

9/17/07